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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Peter N. Lalos
Stevens, Davis, Miller & Mosher, LLP
Suite 850
1615 L Street, NW
Washington, DC 20036-5622

EXAMINER

MATTHEWS, TERRELL HOWARD

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 10/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/786,291

Applicant(s)

GERAGHTY, WILLIAM F.

Examiner

Terrell H. Matthews

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

FINAL REJECTION

Applicant's arguments filed 9/06/2005 have been fully considered but they are not persuasive for reasons detailed below.

The prior art rejections are maintained or modified as follows:

Specification

The disclosure is objected to because of the following informalities: On page 5 of the specification shaft is incorrectly numbered as 52.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Barber (3362480).

Referring to claims 22-24. Barber discloses a "Machine for cleaning sand beaches" as claimed. See Figs. 1-7 and respective portions of the specification. Barber further discloses a wheel unit (38), a support frame mounted on said wheel unit, having

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means for advancing said machine along tract of ground (12), an endless conveyor mounted on said support frame, having a plurality of tines projecting from an outer side thereof and a flight extending from a front end adjacent ground level, upwardly and rearward to an elevated rear end (72), a receptacle mounted on said support frame, positioned to receive articles removed by said tines and carried upwardly and rearwardly on said conveyor and discharged into said receptacle (100) and means mounted on said support frame for driving said conveyor. Additionally, Barber discloses that the conveyor tines are spaced longitudinally and transversely spaced rows (See Col. 4 l. 61-66).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9, 14-16, 20, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Etzler (4056205).

Referring to claims 1-4,7-9. Barber discloses a "Machine for cleaning sand beaches" as claimed. See Figs. 1-7 and respective portions of the specification. Barber further discloses a wheel unit (38), a support frame mounted on said wheel unit, having

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means for advancing said machine along tract of ground (12), an endless conveyor mounted on said support frame, having a plurality of tines projecting from an outer side thereof and a flight extending from a front end adjacent ground level, upwardly and rearwardly to an elevated rear end (72), a receptacle mounted on said support frame, positioned to receive articles removed by said tines and carried upwardly and rearwardly on said conveyor and discharged into said receptacle (100) and means mounted on said support frame for driving said conveyor. Additionally, Barber discloses a draw bar (48) connected to said support frame and connectable to a prime mover. Barber does not disclose that the receptacle has a set of tines cooperable with said conveyor tines perpendicular to a bottom flight of the conveyor to dislodge articles. Etzler discloses a "Loader attachment" as claimed. See Figs. 1-5 and respective portions of the specification. Etzler discloses a receptacle (24) comprising of a plurality of tines (38) connected to vertically adjustable lift arms (12, 14) (See Col. 2 l. 27-33). It would have been obvious to a person of ordinary skill in the art at the present time of the invention to modify the apparatus of Barber to include the teachings of Etzler and include a plurality of tines mounted on front disposed wall of receptacle so that the receptacle could dislodge and rake up items transported from the conveyor tines.

Referring to claim 5-6. Barber discloses the invention as described in detail above. Barber further discloses the spring-like tine members are generally U-shaped with a pair of parallel extending legs with a transversely disposed base portion and that each leg has an offset portion terminal end portion (126) and an intermediate or coil portion (128) (See Col. 4 l. 67-74). Additionally Barber discloses that the U-shaped

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portion of the tine members is positioned overlying transverse bar (74) of the conveyor (72) so that the terminal end (126) is disposed (See Col. 5 l. 1-8 & Fig. 2). It should be noted that the terminal end portion (126) is regarded as the free end. Barber does not disclose the receptacle having tines. It would have been obvious to a person of ordinary skill in the art to modify the system of Barber to include tines in the receptacle as taught by Etzler as detailed above so that heavier or stuck debris could be dislodged from the conveyor and placed in the receptacle.

Referring to claim 14-16. Barber discloses the invention as described above. Barber further discloses that receptacle (100) is pivotal and tiltable about a transverse axis as well as a fluid actuated cylinder assembly operatively interconnecting the support frame and at least one lift arm (See Col 4 l. 45-58). The movement of the receptacle (100) is further illustrated in Fig. 2.

Referring to claim 20. Barber discloses the invention as described above in detail. Barber further discloses a pair of sidewalls (22) mounted on said support frame where conveyor (120) is disposed between (See Col. 2 l. 60-66 & Fig. 2).

Referring to claim 21. Barber discloses that the angular relationship of the support frame and the drawbar may be varied to correspondingly vary the position of the tines relative to the ground (See Col. 3 l. 33-41).

Claims 10-12, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Etzler in further view of Baxter (5133413).

Referring to claim 10-12. Barber discloses that sets of drive sprockets are operatively interconnected by multi-link chain members (68,70) which form a supporting component for bar flight conveyor (72) covered with a laminated rubber covered belting material (76) and that the bar flight conveyor is formed of a plurality of uniformly spaced channel shaped cross bars (74). It can be seen from Fig. 2 that the conveyor includes a flight at a lower, front end thereof, spaced and disposed substantially parallel to ground level. Barber does not disclose that the conveyor is perforated to allow ground particles deposited on said conveyor to gravity fall there through or that the conveyor is of a chain link construction. Etzler does not disclose that the conveyor is perforated to allow ground particles deposited on said conveyor to gravity fall there through or that the conveyor is of a chain link construction. Baxter discloses the invention as described in detail above. Baxter discloses a "Beach cleaning apparatus" as claimed. See Figs. 1-4 and respective portions of the specification. Baxter discloses a conveyor (3) with tines (4,5) that is perforated to allow ground particles deposited on conveyor to gravity fall. Additionally, Baxter discloses that the conveyor belt is a mesh screen material (See Col. 5 l. 9-12) and that other perforated materials could be used that allow for sand and water to easily drip (See Col. 2 l. 37-40). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the apparatus of Barber to include a chain link construction conveyor that was perforated so that water, sand, and other loose particles could drip down.

Referring to claim 19. Barber discloses the invention as described above. Barber does not disclose that the conveyor driving means includes a hydraulic motor. Etzler

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discloses the invention as described above in detail. Etzler does not disclose a conveyor driving means including a hydraulic motor. Baxter discloses the invention as described above. Baxter discloses as numeral (25) in Fig. 1 that there are means for driving the conveyor. It would have been obvious to a person of ordinary skill in the art to include a hydraulic motor as the means to drive the conveyor because they are sufficient at low speeds but provide a good amount of torque so that the conveyor could advance an arrangement of items.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Etzler in further view of Jackson (4608725).

Referring to claim 13. Barber discloses invention as described above. Barber does not disclose at least one idler wheel mounted on the support frame and operatively engaging an underside flight of the conveyor. Etzler discloses the invention as described above in detail. Etzler does not disclose at least one idler wheel mounted on the support frame and operatively engaging an underside flight of the conveyor. Jackson discloses a litter-retrieving machine as claimed. See Figs. 1-14 and respective portions of the specification. Jackson further discloses a conveyor means (5), a framework wheel (29), and idler wheel (160), and a swing-able arm assembly (161). It can be understood from Fig. 2 that idler wheel (160) is mounted on the arm assembly (161) which is connected to frame (13). Additionally it should be noted that idler wheel (160) could be operatively engaged with the underside flight of the conveyor (5). It would have been obvious to a person of ordinary skill in the art to include the idler wheel

of Jackson to the apparatus of Baxter to help drive the conveyor so that articles could be moved into the trough (10).

Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barber in view of Etzler and in further view of Fry (2976936).

Referring to claims 17-18. Barber discloses the invention as described in detail above. Barber does not disclose a receptacle with tines or a shaft joined into a support frame having a sprocket with a radially disposed arm, a pair of trunnions mounted on side walls, one sprocket mounted on the trunnions, an endless chain around the sprockets, a fluid actuated cylinder assembly interconnecting the support frame, or the radially disposed arm operative to pivot and tilt the receptacle. Etzler discloses the invention as described above. Etzler does not disclose a shaft joined into a support frame having a sprocket with a radially disposed arm, a pair of trunnions mounted on side walls, one sprocket mounted on the trunnions, an endless chain around the sprockets, a fluid actuated cylinder assembly interconnecting the support frame, or the radially disposed arm operative to pivot and tilt the receptacle. Fry discloses a vehicle for cleaning beach sands as claimed. See Figs. and respective portions of the specification. Fry discloses a shaft (16) connected into the support frame (10) having a sprocket (57), with a radially disposed arm (48), a pair of trunnions (59), an endless chain (56), and a fluid actuated cylinder assembly (50) interconnecting the support frame which allows the receptacle (44) to be tilted and pivoted. It would have been obvious to modify the apparatus of Barber to include the teachings of Etzler and Fry so

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that the receptacle with tines could dislodge articles from the conveyor into the receptacle which would be able to tilt and pivot more easily allowing it to be better suited to dump out debris in a variety of containers.

Response to Arguments

Applicant's arguments filed 9/06/2005 have been fully considered but they are not persuasive. In particular, Applicant's focus on "a flight extending from a front end adjacent ground level, upwardly and rearwardly (previously inwardly) to an elevated rear end" has been overcome by the structure of Barber's apparatus. Applicant's contention that Baxter did not teach structure is not supported by review of the reference as the reference discloses and details a support frame, wheel unit, conveyor with tines, side frames, receptacle, and a flight. It should be understood that Baxter teaches a flight around the conveyor that extended upwardly and inwardly as is shown in Fig. 4.

However, as a result of the amended claims the base reference has been changed to Barber which clearly discloses the basic structure of the claimed invention as well as a flight that extends upwardly and rearwardly. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed.

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Cir. 1992). In this case, it would have been obvious to combine the elements as disclosed in the claim rejections as they are clearly anticipated by the art. Barber discloses all of the basic structure while Etzler provides clear motivation for adding tines in the receptacle. Additionally, Baxter provides motivation for providing a chain link perforated conveyor as well as hydraulic conveying means, while Fry teaches motivation for adding a pair of trunnions and an endless chain. Consequently, as a review of the prior art undermines Applicant's arguments, the claims stand rejected.

Examiner has maintained the prior art rejections, statutory rejections and drawing objections as previously stated as modified above. Applicant's amendment necessitated any new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Terrell H. Matthews whose telephone number is (571) 272-5929. The examiner can normally be reached on M-F 8am - 4:30pm.

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

Any references not explicitly discussed above but made of record are considered relevant to the prosecution of the instant application.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

THM



KATHY MATECKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

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